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CHANDIGARH ADMINISTRATION
HOSPITALITY DEPARTMENT

Notification

The 30th August, 2023

No. HO-SH-2023/1984.—The Administrator, Union Territory, Chandigarh is pleased to revise the tariff at UT Guest House, New Delhi, immediately.

Statement showing the revised rates of accommodation in the UT Guest House, New Delhi.

Sr. No.	Category	Rate/Tariff per day (INR)		
		Deluxe Room	Normal Room	Driver Room/ Dormitory
1	Union Territory Govt. Officers/officials on duty	150/-	100/-	50/-
2	Union Territory Govt. officers/ officials not on duty or their family members,	300/-	200/-	100/-
3	Other State Govt. officers/ officials on duty	300/-	200/-	100/-
4	Other State Govt.'s officers/ officials not on duty	600/-	400/-	100/-
5	Private Persons on the recommendation of the Secretary/HODs of the Chandigarh Administration	1500/-	1000/-	100/-
6	Drivers accompanying the officers of Chandigarh Administration	—	—	50/-

Note:

1. Applicable taxes as revised by the Government from time to time, shall be charged over and above the above-mentioned rates/tariff.

Signature Not Verified

Digitally signed by
Jalinder Kumar
Date: 2023.08.31
15:50:15
Reason: Public Key
Location:

Chandigarh :

The 22.08.2023

Administrator,
Union Territory, Chandigarh.

(1547)

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CHANDIGARH ADMINISTRATION

LABOUR DEPARTMENT

Notification

The 16th August, 2023

No. 13/1/9780-HII(2)-2023/11899.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 60/2021 dated 31.05.2023 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

PRESIDENT/GENERAL SECRETARY, CHANDIGARH GOVT. TRANSPORT WORKERS UNION, INDUSTRIAL AREA, PHASE-1, WORKSHOP DEPOT NO.1, CTU, CHANDIGARH (Workers' Union)

AND

- (1) THE SECRETARY TRANSPORT, U.T. CHANDIGARH ADMINISTRATION, CHANDIGARH.
- (2) THE DIVISIONAL MANAGER, CHANDIGARH TRANSPORT UNDERTAKING, U.T., CHANDIGARH.
- (3) THE GENERAL MANAGER, CHANDIGARH TRANSPORT UNDERTAKING, U.T., CHANDIGARH. (Management),

referred to the said court by the Chandigarh Administration bearing Endorsement No. 13/1/9780-HII(2)-2021/5112 dated 11.05.2021.

AWARD

1. Vide Endorsement No.13/1/9780-HII(2)-2021/5112 Dated 11.05.2021 the Secretary Labour, Chandigarh Administration has referred the dispute to this Court / Tribunal on the demand notice dated 07.03.2020 in respect of Nirmal Singh - Conductor No.46, now retired Inspector, (*hereinafter in short referred 'workman'*) raised by the President / General Secretary, Chandigarh Govt. Transport Worker's Union (*hereinafter in short referred "workers' union"*) upon The Secretary Transport, U.T. Chandigarh Administration, Chandigarh & Others (*hereinafter in short referred "management"*) under Section 2(k) of the Industrial Disputes Act, 1947 (*hereinafter in short referred "ID Act"*) in following words :—

"Whether the demand raised in the demand notice dated 07.03.2020 by President/General Secretary, Chandigarh Govt. Transport Workers Union, Indl. Area, Phase-I, Workshop Depot No. 1, CTU, Chandigarh (Claimant/Complainant) AND (1) The Secretary Transport, UT., Chandigarh Administration, Chandigarh, (2) The Divisional Manager, Chandigarh Transport Undertaking, UT., Chandigarh and (3) The General Manager, Chandigarh Transport Undertaking UT., Chandigarh are genuine and justified. If so, to what effect and to what relief the Union/Workers are entitled to, if any ?"

2. Upon notice, the workers' union appeared through its representative Shri Naresh Chander, who on 20.09.2021 made the statement that the demand notice dated 07.03.2020 may be treated as statement of claim. Accordingly, the demand notice dated 07.03.2020 was ordered to be treated as statement of claim. Briefly stated the facts of statement of claim are that the workman was illegally charge-sheeted as per charge sheet dated 16.04.1990 issued by General Manager though Divisional Manager was the appointing authority of the workman. The workman was charge sheeted on the allegations that he charged fare from six passengers

at the rate of rupee one, but had not issued the tickets to them, in this way he committed the fraud of ₹ 6/-. Workman replied the charge-sheet and stated that the allegations are false and he had given the tickets to all the passengers. The General Manager without appreciating the reply ordered for regular inquiry. The Inquiry Officer did not conduct the inquiry as per rules and submitted the report against the workman. Thereafter, show-cause notice dated 03.09.1991 was issued, which was replied by workman, but without appreciating the reply of workman General Manager passed an order whereby he was imposed a major punishment by stopping his one increment with cumulative effect vide order dated 26.09.1991 by a non-speaking order. The defence of workman was not considered at all while passing punishment order. Thereafter, order dated 26.09.1991 was substituted by order dated 04.10.1991 whereby passengers were shown as 12 and fraud was also mentioned ₹ 12/- without giving any opportunity of hearing. Against the order of punishment dated 26.09.1991 workman filed an appeal to the Divisional Manager but appeal was also dismissed by General Manager vide order dated 07.01.1992 without appreciating the grounds of appeal. The punishment order and appellate orders are illegal and without jurisdiction because under the rules the Divisional Manager being head of the department is the punishing authority and Secretary Transport is appellate authority but in this case neither the departmental proceedings were initiated by competent authority nor punishment and order of an appeal have been passed by competent authority. Therefore, same are void *ab-initio* and were to be ignored for all interests and purpose including for fixation of pay and pensionary benefits. Since order of punishment is void *ab-initio* and hence cause of action is continuing because workman had been receiving less pay during service and now less pension. In view of the above facts ignoring the order of punishment dated 26.09.1991 / 04.10.1991 as void *ab-initio* as being passed by incompetent authority therefore, pay and pensionary benefits have to be re-fixed and arrears have to be paid to workman along with interest. Prayer is made that pay and pensionary benefits of the workman may be re-fixed after ignoring the punishment order dated 26.09.1991 / 04.10.1991 and all the monetary benefits along with interest @12% per annum be released to the workman.

3. On notice, the management appeared through its authorized representative and thereafter through Law Officer. The management contested the claim of the workman by filing written statement on 02.08.2022, wherein preliminary submissions are made to the effect that the present demand notice is badly time barred. The impugned order was passed on 26.09.1991 / 04.10.1991 whereas the notice was served on 02.08.2021 i.e. after 30 years from the date of cause of action. On this ground the present demand notice is liable to be dismissed. On 09.02.1990, Sh. Nirmal Singh, Conductor No. 46 was on duty with bus No. CHW-7820, Route No. 33. The said bus was checked by Kuldeep Singh and Jagdish Chand, Inspectors at Boothgarh. During the course of checking six passengers were detected alighting without tickets. These passengers boarded the bus from Majra to Boothgarh and paid ₹ 6/- each @ ₹ 1/- each, but the conductor did not issue tickets to them. The other six passengers who boarded the bus from Majra to Block were found travelling without tickets. They had paid ₹ 6/- @ ₹ 1/- each to the conductor as fare, but he did not issue tickets to them. As such, the Conductor defrauded ₹ 12/- from the Government revenue. The charge-sheet was issued by the Divisional Manager. Thereafter, the Divisional Manager delegated his powers to the General Managers. The workman had defrauded by not issuing the tickets for an amount of ₹ 12/-. But inadvertently the charge-sheet was issued for the fraud of ₹ 6/- and the charge-sheet was further adjudicated vide order dated 26.09.1991 by stopping one increment with cumulative effect. When the clerical mistake came to the notice of the department that fraud of ₹ 6/- was mentioned in the charge-sheet instead of ₹ 12/-, then revised and new charge-sheet was issued which was again considered and fresh order dated 04.10.1991 was issued in continuation of earlier office order dated 26.09.1991. The similar punishment was adjudicated and granted in both the orders dated 26.09.1991 and 04.10.1991 by the competent authority after affording sufficient opportunity of personal hearing and representation to the workman.

4. On merits, it is pleaded that the order passed by the General Manager is legal and just. Averments of preliminary submissions are reiterated and averments made in the claim statement are denied as wrong. Prayer is made that claim may be dismissed with cost.

5. Replication not filed. From the pleadings of the parties, following issues were framed vide order dated 13.09.2022 :—

1. Whether the demand raised in the demand notice dated 07.03.2020 by the workers' union is genuine and justified ? If so, to what effect and to what relief the worker's union / workman is entitled to, if any ? OPW
2. Whether the present reference is barred by limitation ? OPM
3. Relief.

6. In evidence, the workers' union examined workman' Nirmal Singh as AW1, who tendered into evidence his affidavit Exhibit 'AW1/A' along with copies of documents Exhibit 'W1' to 'W3'.

Exhibit 'W1' is punishment order dated 26.09.1991 whereby one increment of workman stopped with cumulative effect.

Exhibit 'W2' is substitute punishment order dated 04.10.1991 in continuation of punishment order dated 26.09.1991.

Exhibit 'W3' is order dated 07.01.1992 passed by the appellate authority whereby appeal of the workman was dismissed.

Learned Representative for the workers' union closed the evidence in affirmative.

7. On the other hand, the management examined MW1 Amanpreet Kaur - Senior Assistant, O/o The Director Transport & Divisional Manager, U.T. Chandigarh, who tendered into evidence her affidavit Exhibit 'MW1/A' along with attested copies of documents Exhibit 'M1/1' and Exhibit 'M1/2'.

Exhibit 'M1/1' is order dated 17.07.1990 in respect of delegation of Financial Power of the Head of the Department.

Exhibit 'M1/2' is order bearing Memo NO.35/EAC/HOD/CTU/90 regarding decentralization of Administrative and Financial powers.

On 30.05.2023 Learned Law Officer for the management closed the evidence.

8. I have heard the arguments of Learned Representative for the workers union and Learned Law Officer for the management and perused the judicial file. My issue-wise finding are as below :—

Issue No. 1 :

9. Onus to prove this issue was on the workers' union.

10. Under this issue, Learned Representative for the workers' union referred testimony of AW1 Nirmal Singh, who vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto, which are not reproduced here for the sake of brevity. AW1 supported his oral version with documents Exhibit 'W1' to 'W3'.

11. On the other hand, management examined MW1 Amanpreet Kaur - Senior Assistant, CTU Chandigarh, who vide her affidavit deposed that the present statement of claim is badly time barred. The impugned order was passed on 26.09.1991 / 04.10.1991 whereas the instant statement of claim was served on 02.08.2021, i.e. after 30 years from the date of cause of action. On this ground the present statement of claim is liable to be dismissed. She further deposed that on 09.02.1990, Sh. Nirmal Singh, C No.46 was on duty with

bus No.CHW-7820, Route No.33. The said bus was checked by S/Sh. Kuldeep Singh and Jagdish Chand, Inspector at Boothgarh. During the course of checking, six passengers were detected alighting without tickets. These passengers boarded the bus from Majra to Boothgarh and paid ₹ 6/- each @ ₹ 1/- each, but the Conductor (workman) did not issue tickets to them. The other six passengers, who boarded the bus from Majra to Block were found travelling without tickets. They had paid ₹ 6/- @ ₹ 1/- each to the Conductor as fare, but he did not issue tickets to them. As such, the Conductor defrauded ₹12/- from the Govt. revenue. She also deposed that charge sheet was issued by the Divisional Manager. Thereafter, the Divisional Manager delegated his powers to the General Managers. The workman had defrauded by not issuing the tickets for an amount of ₹ 12/-. But inadvertently the charge-sheet was issued for the fraud of ₹ 6/- and the charge-sheet was further adjudicated vide order dated 26.09.1991. When the clerical mistake came to the notice of the department that fraud of ₹ 6/- was mentioned in the charge-sheet instead of ₹ 12/-, then revised and new charge-sheet was issued which was again considered and fresh order dated 04.10.1991 was issued in continuation of earlier office order dated 26.09.1991. Similar punishment was adjudicated and granted in both the orders dated 26.09.1991 and 04.10.1991 by the competent authority after affording sufficient opportunity of personal hearing and representation to the workman.

12. Learned Representative for the workers' union argued that punishment order dated 26.09.1991 / Exhibit 'W1' and order dated 04.10.1991 / Exhibit 'W2' were passed by the General Manager, CTU, Chandigarh, though he was not competent to pass the said punishment order. The workman filed an appeal against the punishment order to higher authority but the appeal was also dismissed by the same authority and the same person i.e. General Manager, CTU vide order dated 07.01.1992 / Exhibit 'W3'. Therefore, the entire action of management of passing order of punishment and order of appeal is illegal and void *ab-initio*. At the relevant time of passing of punishment order Exhibit 'W1' and Exhibit 'W2' the General Manager was incompetent to pass the punishment order. To support his arguments Learned Representative for the workers' union referred Mark 'A' i.e. order dated 05.05.1993 passed by Shri Sanjay Kothari, Home Secretary, Chandigarh Administration relating to Shri Charan Dass - Conductor No.53, CTU Chandigarh.

13. On the other hand, Learned Law Officer argued that the charge sheet was issued by the Divisional Manager. Thereafter, Divisional Manager delegated his powers to the General Managers vide order dated 17.07.1990 / Exhibit 'MW1/1' and order dated 22.08.1990 / Exhibit 'MW1/2'. It is further argued by Learned Law Officer that the punishment order dated 26.09.1991 and 04.10.1991 are passed by the competent authority after affording sufficient opportunity of personal hearing and representation to the workman. Learned Law Officer referred cross-examination of MW1 wherein she has stated that in this case order of punishment dated 26.09.1991 was passed by the General Manager, CTU, Chandigarh. The General Manager was given the power of appointing & punishment authority by the Divisional Manager. MW1 has denied the suggestion as wrong that on 26.09.1991 the then General Manager, CTU was not competent to pass punishment order.

14. Admittedly, the Punjab Civil Services (Punishment & Appeal) Rules are applicable to the employees of CTU. In this case the order of punishment dated 26.09.1991 and 04.10.1991 are proved to have been passed by the competent authority i.e. General Manager, CTU. Vide order dated 30.08.1989 / Exhibit 'W4' of Finance Secretary, Chandigarh Administration, the Divisional Manager, CTU was declared as Head of the Department in place of Deputy Secretary Home under Rule 3(F) of Delegation of Financial Powers Rules and S.R2(10) of Supplementary rules. MW1 in her cross-examination admitted as correct that vide order dated 30.08.1989 passed by Finance Secretary, Chandigarh Administration, Divisional Manager, CTU was declared Head of the Department in place of Deputy Secretary Home. In this manner vide order Exhibit 'W4'

it is not the delegation of powers to the Divisional Manager, CTU but by this letter Divisional Manager, CTU was declared Head of the Department. Vide order No.EA/HOD/CTU/90/1933 dated 17.07.1990 / Exhibit 'MW1/1', under Rule 14 of the Delegation of Financial Powers Rules, 1970 the Divisional Manager, Chandigarh Transport Undertaking, Chandigarh, exercising the powers of Head of the Department declared the following officers of Chandigarh Transport Undertaking, Chandigarh, as Head of the Office in respect of their Depots :—

- i) Shri K. S. Gosal, General Manager, Depot - I
- ii) Shri B. S. Sood, General Manager, Depot - II
- iii) Shri Labh Singh, General Manager, Depot - III

As per the contents of order bearing Memo No.35/EAG/HOD/CTU/90 dated 22.08.1990 / Exhibit 'MW1/2', the Divisional Manager, CTU, Chandigarh with the coming into existence of three Depots I, II, III of CTU, Chandigarh, decentralisation of powers, now vested in the Divisional Manager, Chandigarh Transport Undertaking, Chandigarh, are delegated under different heads i.e. administrative and financial powers. Under the 'administrative' head mentioned in para 1 of order dated 22.08.1990 the extent of administrative powers is mentioned from serial No.(i) to (xv). According to serial No.(i), they will exercise all the powers as endowed upon them at Head of Office as declared vide order No.EA/HOD/CTU/90/1933 dated 17.07.90. As per serial No.(ii) General Managers will be In-charge of depots within their jurisdiction. As per serial No.(iv), they will be the appointing authority of posts in Group 'C' & 'D' services. By virtue of these powers they will also be punishing authority to the employees falling in these categories. On the basis of Exhibit 'MW1/1' and Exhibit 'MW1/2', the General Manager, CTU was competent to pass the punishment order dated 26.09.1991 / Exhibit 'W1' and 04.10.1991 / Exhibit 'W2'. Delegation of powers by the Divisional Manager, CTU vide order dated 17.07.1990 / Exhibit 'MW1/1' and order dated 22.08.1990 / Exhibit 'MW1/2' cannot be construed as sub-delegation of powers. To such circumstances, the judgment of Hon'ble Supreme Court referred by Learned Representative for the worker's union reported in **1996(4) SCC 708** titled as **Director General, ESI Versus T. Abdul Razak** is not applicable to the facts of the present case.

15. As far as order dated 05.05.1993 passed by Home Secretary, Chandigarh Administration / Mark 'A' which relates to departmental proceedings of Charan Dass - Conductor No. 53, CTU, Chandigarh is concerned, the same is not sufficiently proved into evidence. Mark 'A' is a photocopy and its original or certified copy is not produced into evidence. MW1 in her cross-examination stated that she does not know about the departmental proceedings case of Charan Dass - Conductor No. 53, CTU, Chandigarh. To my opinion, the findings recorded by Home Secretary, Chandigarh Administration in his order dated 05.05.1993 are not binding on this Court. Moreover, in the order dated 05.05.1993 / Mark 'A', there is no observation that General Manager, CTU was incompetent to pass the punishment order. In this regard para 4 of order dated 05.05.1993 / Mark 'A' is reproduced as below :—

"4. After hearing the delinquent official and also going through the inquiry report as well as order passed thereon, I do not find that the impugned has been passed by the General Manager, CTU an authority lower than the rank of appointing authority i.e. Divisional Manager, CTU."

16. As far as the appeal against the punishment order is concerned, the careful perusal of Exhibit 'W3' would reveal that it is a letter address from General Manager, CTU to the Divisional Manager, CTU, Chandigarh bearing Memo No.198/ECC/CTU/91 dated 07.01.1992 relating to the subject of appeal against order No.1451/ECC/CTU/91 dated 26.09.1991 and reference to Divisional Manager's Memo No.EA/HOD/CTU/91/8964 dated 24.12.1991. In the said letter General Manager, CTU, Chandigarh has given his comments and submitted that the request of official may kindly be rejected. Therefore, Exhibit 'W3' is not order of appeal

and has been misinterpreted as order of appeal by the workman / workers' union. Consequently, there is nothing to assume that the punishing authority i.e. the General Manager, CTU himself decided the appeal against the punishment order.

17. Furthermore, MW1 in her examination-in-chief vide Exhibit 'MW1/A' has mentioned the operative para of letter dated 08.07.1993 issued by the General Manager, CTU, which is reproduced as below :—

"In this connection it is informed you that the powers of appellate authority lies with the Home Secretary, Chandigarh Administration. The Divisional Manager vide Memo No.EA/ECC/HDD/CTU/93/5487 dated 22.06.1993 has intimated to this office that your case could not be decided at the level of Divisional Manager. You are, therefore, directed to file your appeal before the Home Secretary, Chandigarh Administration against the order of General Manager."

The aforesaid version of MW1 is not controverted by the Learned Representative for the workers' union in her cross-examination. The fact deposed by a witness, which is not controverted in his / her cross-examination, is deemed to be admitted under the law. Accordingly, the workman has a remedy to file an appeal before the Home Secretary, Chandigarh Administration against the order of General Manager. It is not the case of the workers' union that the workman Nirmal Singh has exhausted the remedy of appeal before the Home Secretary, Chandigarh Administration. As such the workers' union has failed to prove that the demand raised in the demand notice dated 07.03.2020 by the workers' union is genuine and justified.

18. Accordingly, this issue is proved against the workers' union and in favour of the management.

Issue No. 2 :

19. The workman through workers' union has challenged the punishment orders dated 26.09.1991, 04.10.1991 and order of appeal dated 07.01.1992. The workman raised the demand notice on 07.03.2020 i.e. after lapse of about 29 years without offering any plausible explanation or justification for delay. Therefore, the present claim statement / industrial dispute reference is barred by limitation.

20. Accordingly, this issue is proved in favour of the management and against the workers' union.

Relief :

21. In the view of foregoing findings on the issues above, the industrial dispute reference is declined and answered against the workers' union. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152

Dated : 31.05.2023

CHANDIGARH ADMINISTRATION

LABOUR DEPARTMENT

Notification

The 16th August, 2023

No. 13/1/9777-HII(2)-2023/11901.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 55/2021 dated 26.05.2023 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

PRESIDENT/GENERAL SECRETARY, ELECTRICAL WORKMEN UNION, CHANDIGARH
(Workers Union)

AND

1. THE SECRETARY, TAGORE THEATRE, SECTOR 18, CHANDIGARH.
2. TAGORE THEATRE MANAGING COMMITTEE, SECTOR 18, CHANDIGARH
(Management), referred to the said court by the Chandigarh Administration bearing Endorsement No. 13/1/9777-HII(2)-2021/5121 dated 11.05.2021.

AWARD

1. Vide Endorsement No.13/1/9777-HII(2)-2021/5121 Dated 11.05.2021 the Secretary Labour, Chandigarh Administration has referred the dispute to this Court / Tribunal on the demand notice dated 02.02.2019 in respect of Shri Shyam Lal @ Sham Lal, Ex-Sweeper of Tagore Theatre (*hereinafter in short referred "workman"*) raised by the President / General Secretary, Electrical Workmen Union, Chandigarh (*hereinafter in short referred "workers' union"*) upon the Secretary, Tagore Theatre, Sector 18, Chandigarh & Another (*hereinafter in short referred "management"*) under Section 2(k) of the Industrial Disputes Act, 1947 (*hereinafter in short referred "ID Act"*) in following words :—

"Whether the demand raised in the demand notice dated 02.02.2019 by President/General Secretary, Electrical Workmen Union Chandigarh AND The Managements (1) The Secretary, Tagore Theatre, Sector 18, Chandigarh (2) Tagore Theatre Managing Committee, Sector 18, Chandigarh are genuine and justified. If so, to what effect and to what relief the Union/Workers are entitled to, if any ?"

2. Upon notice, the workers' union appeared through its representative Shri N. K. Nagar, who on made the statement that the demand notice dated 02.02.2019 may be treated as statement of claim. Accordingly, the demand notice dated 02.02.2019 was ordered to be treated as statement of claim. Briefly stated the facts of statement of claim are that no union exists in the establishment of Tagore Theater whereas claim regarding grant of benefits of leave encashment was not possible to be lodged against the management in individual capacity by Shyam Lal @ Sham Lal S/o Late Kishan Lal R/o House No. 1108, Phase-I, Ram Darbar, U.T, Chandigarh, an Ex-Sweeper of Tagore Theater, workman, who approached the union for the espousal of his cause. In order to alleviate ideology of this union that none should remain remediless and every worker should have unhindered access of law therefore, the union vide its resolutions dated 29.01.2019 has unanimously resolved to fight for his cause in the court of law, authorized its President/Secretary to sign necessary pleadings / letter of authority etc. to engage Shri N. K. Nagar, Chandigarh and to do anything / everything required in the matter of logical conclusion of the matter. The workman was selected and appointed as Sweeper with the management on 22.10.1970 on regular basis. After unblemished service of over 40 years, he has been retired

on superannuation w.e.f. 31.12.2010. On 27.02.1984, an agenda for the meeting of managing body of Tagore Theater Society (Regd.) was placed before it which includes item No.10. Applicability of the service benefits to the employees of the Tagore Theater Society (Regd.), Chandigarh. Vide this agenda it was proposed that it has *inter-alia* been advised that Tagore Theater Society has got a very small establishment and framing of separate rules for these employees may not be considered necessary and they should be allowed to be governed by the rules applicable to the employees of the Chandigarh Administration as is being done by other societies like Indian Red Cross Society, Chandigarh Branch, in its meeting dated 06.07.1984 the Tagore Theater Society (Regd.) under the Chairmanship of the Advisor to the Administrator approved agenda Item No.10 to the following effect :—

"The proposal made under this item was approved for implementation w.e.f. 01.09.1984."

Thereafter, this decision was conveyed / forwarded to the Chairman of Tagore Theater Society (Regd.) Chandigarh for implementation vide letter No. TT/84/214 dated Chandigarh, the 27th July, 1984. Chandigarh Administration follows the rules / instructions framed by Govt. of Punjab. Under Rule 8.21 Vol .I, Part - I of the Punjab Civil Services Rules, an employee is entitled to earned leave / cash payment equivalent to leave salary to the maximum of 300 days (as amended vide Govt. letter dated 13.05.1998). Invariably all employees of Chandigarh Administration are bestowed with benefits of earned leave. Not only this, even the employees of Indian Red Cross Society, Chandigarh Branch are getting the benefits of Leave Encashment to the maximum of 300 days as applicable to employees of Chandigarh Administration. The workman sought information under RTI, vide which it is informed that besides other, Shri Hukam Chand, Ex-Driver of Indian Red Cross Society, Chandigarh Branch was / is allowed this benefit of earned leave. The workman has worked with the management for long more than 40 years that too during day and night and he has unutilized earned leave standing to his credit for more than a period of 300 days. As per approved rules as referred above, employees of Chandigarh Administration and also of Indian Red Cross Society, Chandigarh Branch are getting benefit of earned leave / cash payment equivalent to leave salary to a maximum of 300 days (as amended vide Govt. Letter dated 13.05.1998), therefore, the workman is also entitled to the same. In accordance with Rule 8.21(c) Vol. I Part - I of the Punjab Civil Services Rules, the calculation is to be made as prescribed.

(c) the cash payment for the unutilized leave admissible under the aforesaid sub-rule (a), shall be calculated as follows, namely :—

Pay admissible on the date of retirement plus Dearness Allowance admissible on that date 30	X	Number of days of un-utilised earned leave at credit on the date of retirement subject to a maximum of 300 days
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The wages last drawn by the workman was ₹ 20,548/-. Thus, ₹ 20,548/- X 10 comes to ₹ 2,05,480/- to which the workman is entitled to claim. Despite the fact that management was / is aware of entitlement of the workman yet has unduly withheld the amount of ₹ 2,05,480/-. Therefore, workman is entitled to claim interest thereupon @ 12% P.A. w.e.f. the date of retirement on which date it became due for payment along with cost of litigation. Under the facts and circumstances narrated above, the union raised a demand to the management to release benefit of unutilized earned leave to the workman to the tune of ₹ 2,05,480/- along with interest @ 12% p.a. from the date of retirement of the workman till realization along with cost of litigation.

3. On notice, management contested the claim statement by filing written statement on 06.10.2021 wherein preliminary objections / submissions are made on the ground that workman had never approached the management of the Tagore Society for the release of leave encashment of leave at any point of time as such workman has no cause to file the present demand notice. The demand notice has been filed by the Electrical Work Union and the Employees of the Tagore Theater Society are not members of the said union. As such the

Electrical Workmen Union is not competent to file the present claim against the Tagore Theater Society. The demand notice deserves to be dismissed on the ground of delay and laches as well as acquiescence. The workman was retired on superannuation on 31.12.2010 whereas the workman is filing the present demand notice in the year 2019. As such, the demand notice is heavily barred by limitation and deserves to be dismissed on this sole ground. Hon'ble Supreme Court of India held that in case there is delay in filing the claim, the same cannot be heard on merit without condoning the delay. Further, no application for condonation of delay in filing the demand notice has been filed by the workman. It is settled proposition of law that each and every day of delay must be explained and in the event of no explanation of the same, the claim filed by the workman deserves to be rejected out rightly. Besides, the workman is guilty of misrepresenting the facts and *supprescio vary and exprescio falsi* to the extent that the workman has completely misconceived, suppressed true and material facts in the demand notice. As such the workman has approached this Hon'ble Court with unclean hands. The true facts are that the workman retired on superannuation on 31.12.2010 from the Tagore Theater Society and all applicable benefits have been released to the workman. It is true that service rules as applicable to the employees of Chandigarh Administration were applied for the employees of Tagore Theater Society for the benefits like Medical Concession, Travelling Allowance, L.T.C. and leave etc. The Tagore Theater has no source of income except the rental income and very small amount of grant-in-aid from the Chandigarh Administration. Due to paucity of funds, the Tagore Theater Society was not able to make the payment of service benefits at par with the employees of Chandigarh Administration. Therefore, the matter regarding implementation of the decisions of the Governing Body taken in its meeting held on 06.07.1984 regarding applicability of the service benefits i.e. Medical Concession, Travelling Allowance, L.T.C. and leave etc. to the regular employees of the Tagore Theater Society at par with the employees of Chandigarh Administration was placed before the Managing Body in its meeting held on 11.02.2010 vide agenda Item No.8. The managing body resolved that a committee already constituted under the Chairmanship of Finance Secretary for the purpose. The said committee gave its recommendations which were placed before the managing body vide agenda Item No.1 in the meeting held on 06.04.2011. The committee in its recommendations vide Item No. 4 relating to implementation of the decisions of the governing body taken in the meeting held on 06.07.1984 regarding applicability of the service benefits to the employees of the Tagore Theater Society at par with the employees of the Chandigarh Administration, after deliberation unanimously recommended that the regular employees of Tagore Theater should be paid the daily allowance and travelling allowance only as applicable to the Govt. employees. The said recommendation of the committee was accepted by the managing body in its meeting held on 06.04.2011 except Item No.2. As such the Tagore Theater managing body has reversed its decision taken vide agenda Item No.10 in its meeting held on 06.07.1984. The workman has equated his claim with the employees of Indian Red Cross Society. The Indian Red Cross Society receives donation from various organization whereas Tagore Theater does not get any such donation. The Managing Boards / Committees of both the Tagore Theater and Indian Red Cross Society are different. Therefore, Tagore Theater cannot be equated with Indian Red Cross Society.

4. Further on merits, it is stated that the demand notice has been filed by the Electrical Work Union and the employees of Tagore Theater Society are not members of the said union. As such, the Electrical Workmen Union is not competent to file the present claim against the Tagore Theater Society. Further similar stand is taken as taken in the preliminary submissions. It is stated that as regard to allowing the benefits of leave encashment to Shri Hukam Chand, Ex-Driver, Indian Red Cross Society, Chandigarh Branch is denied for want of knowledge. Rest of the averments / contents of demand notice-cum-claim statement are denied as wrong and prayed is made that the demand claimed by the workman may be dismissed.

5. Replication not filed. From the pleadings of parties, following issues were framed vide order dated 11.11.2021:—

1. Whether the demand raised in the demand notice dated 02.02.2019 by the worker's union is genuine & justified, if so to what effect and what relief the union/worker are entitled to, if any ? OPW.
2. Whether the workers' union is not competent to file the present claim statement against management? OPM
3. Whether the claim is bad on the ground of delay and latches? OPM
4. Relief.

6. In evidence workers' union examined workman Shyam Lal @ Sham Lal as AW1, who tendered his affidavit Exhibit 'AW1/A' along with documents Exhibit 'W1' to Exhibit 'W12'.

Exhibit 'W1' is copy of letter dated 22.10.1970 issued from Secretary Tagore Theater Managing Committee to Shyam Lal.

Exhibit 'W2' is copy of letter dated 27.02.1984 issued from Secretary Tagore Theater Society Chandigarh to The Chairman Tagore Theater Society Chandigarh, all the Members of Tagore Theater Society and Special Invitees relating to the subject of meeting of the Tagore Theater Society (Regd.) Chandigarh.

Exhibit 'W3' is list of members, non-official members and special invitees of the Tagore Theater Society (Regd.) Chandigarh along with agenda for the meeting of the managing body of the Tagore Theater Society (Regd.) to be held on 27.02.1984 at 04:00 p.m. in the committee room of U.T. Secretariat, Sector 9, Chandigarh.

Exhibit 'W4' is copy of letter dated 27.07.1984 issued from Secretary Tagore Theater Society Chandigarh to The Chairman Tagore Theater Society Chandigarh, all official/non-official members of Tagore Theater Society and Special Invitees relating to the subject of minutes of meeting of the Tagore Theater Society (Regd.) held on 06.07.1984.

Exhibit 'W5' is copy of Memorandum of Associations of Tagore Theater Society Chandigarh.

Exhibit 'W6' is copy of pay bill for the month of December 2010 in respect of regular staff of Tagore Theater Society.

Exhibit 'W7' is copy of order dated 11.09.2007 passed by Chairman, Indian Red Cross Society, U.T, Chandigarh.

Exhibit 'W8' is copy of order bearing endorsement No. Mgr./TT-18/2020/429-436 dated 02.06.2010 issued by Director Tagore Theater Society, Sector 18, Chandigarh.

Exhibit 'W9' is copy of letter dated 14.08.2014 issued from Indian Red Cross Society, U.T. Branch Chandigarh to Sham Lal S/o Kishan Lal relating to the subject of supply of information under Right to Information Act, 2005.

Exhibit 'W10' is copy of letter dated 28.07.2014 issued from Field Supervisor-cum-CPIO-Indian Red Cross Society, U.T. Branch Chandigarh to Shayam Lal S/o Kishan Lal relating to the subject of supply of information under Right to Information Act, 2005.

Exhibit 'W11' is copy of noting page No. 10 to 15 relating to disbursement of Gratuity, Leave Encashment and Contributory Provident Fund given to Shri Hukam Singh, Ex-Driver, Indian Red Cross Society (noting page No. 10 to 15 supplied to the workman under RTI Act in pursuance to letter dated 28.07.2014/Exhibit W-10).

Exhibit 'W12' is the copy of Rule 8.21 of The Punjab Civil Services Rules Vol - I (Part-I).

On dated 17.03.2023 Learned Representative for the workers' union tendered attested copies of documents Exhibit 'W1' to Exhibit 'W6' and Exhibit 'W8' to Exhibit 'W11' vide Exhibit 'W1/A' to Exhibit 'W6/A' and Exhibit 'W8/A' to Exhibit 'W11/A' respectively along with copy of order dated 28.12.2010 regarding retirement of Shyam Lal workman vide Exhibit 'W13' and closed evidence in affirmative on behalf of the workers' union.

7. On the other hand management examined MW1 Abhishek Sharma, Director Tagore Theater Society who tendered his affidavit Exhibit 'MW1/A' along with certified copies of documents i.e. minutes of meeting dated 23.09.2010 vide Exhibit 'M1' and minutes of meeting dated 06.04.2011 vide Exhibit 'M2'. On 26.05.2023 Learned Law Officer for the management No.1 & 2 closed evidence.

8. I have heard arguments of Learned Representative for the workers' union and Learned Law Officer for management No.1 & 2 and have perused the judicial file. My issue wise findings are as below :—

Issue No.1 :

9. Onus to prove this issue is on the workman.

10. Under this issue Learned Representative for the workers' union referred the testimony of AW1 Shyam Lal @ Sham Lal, who vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto which are not reproduced here for the sake of brevity. AW1 has supported his oral version with documents Exhibit 'W1' to Exhibit 'W12'.

11. On the other hand, Learned Law Officer for the management referred the testimony of MW1 Abhishek Sharma, Director Tagore Theater Society who vide his affidavit Exhibit 'MW1/A' deposed all the material contents of the written statement which are also not reproduced here for the sake of brevity. MW1 has supported his oral version with documents Exhibit 'M1' and Exhibit 'M2'.

12. From the oral as well as documentary evidence lead by the parties, it comes out that undisputedly Shyam Lal @ Sham Lal was appointed with the management on 20.10.1970 and retired on 31.12.2010. In this regard MW1 in his cross-examination admitted as correct Shyam Lal was appointed with the management on 20.10.1970 and retired on 31.12.2010.

13. Learned Law Officer has objected the documents Exhibit 'W1' to Exhibit 'W12' being beyond pleadings. To my opinion the objection raised by Learned Law Officer is not sustainable because in the demand notice-cum-claim statement the workman through workers' union is claiming leave encashment on his superannuation whereas the management in its written statement contested the same by relying upon the decisions of the governing body of Tagore Theater Society in its meeting held on 06.07.1984, 11.02.2010 and 06.04.2011. The workman in its pleadings specifically alleged that he has equated his claim with the employees of Indian Red Cross Society. No document of workman brought into evidence vide Exhibit 'W1' to Exhibit 'W12' is beyond pleadings.

14. Learned Representative for the worker's union alleged that the Rules and Regulations applicable to the employees of Chandigarh Administration were applicable to the employees of the Tagore Theater Society. The aforesaid plea taken by the workers' union is not disputed by the management. MW1 in his cross-examination has admitted the suggestion as correct that the Rules & Regulations applicable to the employees of Chandigarh Administration were applicable to the employees of management including the present workman vide Exhibit 'W3' and Exhibit 'W4'.

15. The question before this court is whether the workman is entitled to the benefit of leave encashment of un-availed earned leave which is admissible to the employees of Chandigarh Administration. MW1 in his cross-examination admitted as correct that benefit of leave encashment of un-availed earned leave is / was admissible to every employee of Chandigarh Administration. As discussed above, it is own admission of MW1

that the Rules and Regulations applicable to the employees of Chandigarh Administration were applicable to the employees of Tagore Theater Society / management. Learned Representative for workers' union contended that in view of the fact that the Rules & Regulations of Chandigarh Administration are applicable to the management of Tagore Theater Society, the workman who retired on 31.12.2010 is also entitled to the benefit of leave encashment of earned leave. Learned Law Officer for the management argued that the service rules as applicable to the employees of Chandigarh Administration were adopted for the employees of Tagore Theater Society for the benefits like Medical Concession, Travelling Allowance, LTC and Leave etc. The governing body of the Tagore Theater Society in its meeting held on 11.02.2010 vide agenda Item No.8 taken up the matter regarding implementation of the decisions of the governing body taken in its meeting held on 06.07.1984 regarding applicability of the service benefits i.e. medical concession, travelling allowance, LTC and leave etc. to the regular employees of the Tagore Theater Society at par with the employees of Chandigarh Administration. The said committee gave the recommendations which were placed before the managing body vide agenda Item No.1 in the meeting held on 06.04.2011. The committee in its recommendations vide Item No.4 relating to implementation of the decisions of the governing body taken in the meeting held on 06.07.1984 regarding applicability of service benefits to the employees of the Tagore Theater Society at par with the employees of Chandigarh Administration, unanimously recommended vide Exhibit 'M1' that regular employees of Tagore Theater should be paid the daily allowance and travelling allowance only as applicable to Govt. employee. Vide Exhibit 'M2', the recommendations of the committee / Exhibit 'M1' were accepted by the managing body in its meeting held on 06.04.2011 except Item No. 2. MW1 in his cross-examination stated that as per Exhibit 'M1' and Exhibit 'M2' regular employees of the management are allowed D.A. and Travelling Allowance only. MW1 denied the suggestion as wrong that leave encashment is not disallowed vide Exhibit 'M1' and Exhibit 'M2'. To my opinion from the documents Exhibit 'M1' and Exhibit 'M2' referred above it is made out that the committee unanimously recommended that 6 regular employees of Tagore Theater should be paid the daily allowance and travelling allowance only as applicable to the Govt. employees. In case Exhibit 'M1' and Exhibit 'M2' is interpreted as recommendation of the committee that the regular employees of Tagore Theater Society are entitled only to Daily Allowance and Travelling Allowance as applicable to the employees of Chandigarh Administration and the regular employees of Tagore Theater Society are not entitled to any other benefit like medical concession and leave, in that situation it would be lead to inference that vide Exhibit 'M1' and Exhibit 'M2' service conditions of the regular employees of Tagore Theater Society are altered to their prejudice. Undisputedly, the workman Shyam Lal @ Sham Lal worked continuously with the Tagore Theater Society for a period of about 40 years from 20.10.1970 to 31.12.2010, thus, fulfill the requirement of Section 25-B of the ID Act. Under Section 9-A of the ID Act no employer can affect any change in the conditions of service applicable to any workman causing prejudice to the workman without giving to the workman, likely to be effected by such change, a notice in the prescribed manner of the nature of the change proposed to be effected; or within 21 days of giving such notice. In the present case, MW1 admitted as correct that document Exhibit 'M2' has no retrospective effect especially with regard to medical concession, Travelling Allowance, LTC and Leaves etc. MW1 has admitted as correct that prior to passing of order dated 06.04.2011 / Exhibit 'M2' workman Shyam Lal was already retired. MW1 further stated that before changing the terms and conditions vide Exhibit 'M1' and Exhibit 'M2', no notice was given to any of the effected employees. From the aforesaid version of MW1 it is duly proved on record that Exhibit 'M1' and Exhibit 'M2' which adversely affect the service conditions of the employees of the Tagore Theater Society are passed without following Section 9-A of the ID Act. Consequently, Exhibit 'M1' and Exhibit 'M2' are violative to Section 9-A of the

ID Act. Moreover, order dated 06.04.2011 / Exhibit 'M2' has no retrospective effect. The workman Shyam Lal retired from service on 31.12.2010 prior to passing of order dated 06.04.2011 / Exhibit 'M2', therefore, the order Exhibit 'M2' is not applicable to the workman. Consequently, the workman is entitled to leave encashment of unpaid earned leave as per the rules applicable to the employees of Chandigarh Administration. The management has failed to controvert the fact that at the time of retirement the workman had more than 300 days unutilized earned leave to his credit but as per the Rule 8.21 of The Punjab Civil Services Rules, Vol. - I (Part - I) / Exhibit 'W12' / Exhibit 'W12/A' the workman is entitled to leave encashment of unutilized earned leave at credit on the date of retirement subject to maximum of 300 days.

16. In view of the discussion made above, Shyam Lal @ Sham Lal (workman) is entitled to leave encashment of unutilized earned leave of 300 days. As such, the demand raised in the demand notice dated 02.02.2019 by the workers' union is genuine and justified.

17. Accordingly, this issue is decided in favour of the workers' union and against the management.

Issue No. 2 :

18. Onus to prove this issue is on the management.

19. Learned Law Officer for the management raised the objection that workers' union is not competent to file the present claim statement against the management because the employees of Tagore Theater Society are not the members of the said union.

20. On the other hand, Learned Representative for the workers' union contended that there is nothing wrong if the workers' union espoused the Industrial Disputes under Section 2(k) of the ID Act. To support his arguments Learned Representative for the workers' union referred the judgment reported in **2001(1) CLR 570 Bombay titled as Anz Grindlays Bank Versus General Secretary Grindlays Bank Employees Union & Ors.** To my opinion the judgment referred supra by Learned Representative for the workers' union is applicable to the facts of the present case to an extent and accordingly the union can espouse cause of even a non-member, who approaches the union for help.

21. Accordingly, this issue is decided against the management and in favour of the workers' union.

Issue No. 3 :

22. Onus to prove this issue is on the management.

23. Learned Law Officer for the management raised objection that the claim of the workman is liable to be rejected on the ground of delay and laches. The workman retired from service 31.12.2010 and raised the demand notice on 02.02.2019 and presented the present reference on 18.05.2021 which is barred by limitation. No explanation has come forward to explain the delay of each day.

24. On the other hand, Learned Representative for the workers' union argued that workman is not seeking his reinstatement but is claiming service benefit of leave encashment due to him on his retirement which can be computed in terms of money and claim for the same does not attract any limitation. Moreover, before raising the present Industrial Dispute, the workman had made repeated verbal requests to the management to release his leave encashment and also raised a demand notice but the management has failed to pay the same due to which cause of action has arisen in favour of the workman.

25. To my opinion the payment of leave encashment is one of the retirement benefits. It is duty of the management to pay all retirement benefits to its employees within 6 months from the date of his retirement. In this case, the workman retired on 31.12.2010. Non-payment of leave encashment is a recurring cause of action and the bar of limitation is not attracted.

26. Accordingly, this issue is decided against the management and in favour of the workers' union.

Relief :

27. In the view of foregoing finding on the issues above, this industrial dispute reference is allowed and answered in favour of the workers' union to the effect that Shyam Lal @ Sham Lal (workman) is entitled to leave encashment of unutilized earned leave of 300 days. The management is directed to comply with the award within three months from the date of publication of the same in Government Gazette failing which the management is liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this award till the date of actual realisation. Appropriate Government be informed. Copy of this award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

Dated : 26.05.2023

(Sd.) . . . ,
(JAGDEEP KAUR VIRK),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

Secretary Labour,
Chandigarh Administration.

CHANGE OF NAME

I, Himani S Mann, W/o Shiv Pratap Singh Mann, R/o # 538, Sector 11-B, Chandigarh, have changed my name to Himani Shiv Mann.

[1042-1]

I, Shiv Pratap Singh Mann, S/o Hari Singh Mann, R/o # 538, Sector 11-B, Chandigarh, have changed my daughter's name from Gaurika S. Mann to Gaurika Mann.

[1043-1]

I, Sushma Kumari, W/o Raj Kumar, # 5718, Maloya Colony, Chandigarh, have changed my name to Sushama Kumari.

[1044-1]

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